IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 4064 of 1985
Date of decision: 20.1.2009

Bikram Singh

...Petitioner

Versus

The Tribunal, Ludhiana Improvement Trust etc.

...Respondents

CORAM: HON'BLE MR.JUSTICE ADARSH KUMAR GOEL
HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. Hemant Sarin, Advocate
for the petitioner.

Mr. Rupinder Khosla, Advocate
for Improvement Trust.

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ADARSH KUMAR GOEL,J. (Oral)

1. This order will dispose of four petitions being CWP Nos.4063 , 4064 and 5334 of 1985 and CWP No. 5865 of 1986. Three petitions have been filed by the land owners while the fourth one has been filed by the Improvement Trust, Ludhiana, arising out of the same acquisition proceedings.

2. Notification under Section 36 of the Punjab Town Improvement Act, 1922 (for short `the Act') is dated 11.12.1970 while the notification under Section 42 of the Act is dated 9.11.1971. The Collector vide award dated 24.3.1972 determined compensation in three blocks ranging from Rs.200/- per marla to Rs.450/- per marla. The Land Acquisition Tribunal vide award dated 17.12.1984 determined compensation in two blocks i.e. Rs. 450/- per marla for Block A upto a depth of 10 karmas from the land and Rs.350/- per marla for Block B.

3. We have heard the learned counsel for the parties.

4. Learned counsel for the land owners opposed the writ petition filed by the Improvement Trust and submitted that the compensation should be enhanced to Rs.20/- per square yard in view of earlier award of the Land Acquisition Tribunal Exhibit PW14/17 on record in the case of Shanti Devi v. Ludhiana Improvement Trust dated 22.5.1974 in LAC 34 of 1973 pertaining to the same acquisition, wherein compensation was awarded at the uniform rate of 20/- per square yard. By mistake, the earlier award Exhibit PW-14/17 has been read to have awarded compensation at the rate of Rs.450/- per marla and Rs.350/- per marla for two Blocks, whereas a perusal of the said award Exhibit PW-14/17 shows that a flat rate of Rs.20/- per square was awarded.

5. Learned counsel for the Improvement Trust submitted that the Collector had rightly formed three blocks while determining compensation and the Tribunal was not justified in limiting it to only Blocks A and B and by clubbing the Blocks as Block B. Opposing the prayer for enhancement by the land owners, he submitted that exercise of power under Article 226/227 of the Constitution, this Court should not interfere with the determination of compensation which will involve appreciation of evidence as a writ of certiorari can be issued only to correct a patent error of law. Reliance has been placed on the judgments of Supreme Court in **Khanna Improvement Trust v. Land Acquisition Tribunal and others 1995(2) SCC 557** and **Major Pakhar Singh Atwal v. State of Punjab, AIR 1995 SC 2185.**

6. The question for consideration is whether any interference is called for with the impugned award and if so, to what extent.

7. There is no dispute about the legal principle that while exercising jurisdiction under Section 226/227 of the Constitution, this Court does not re-appreciate the evidence, as rightly submitted by learned Counsel for the Improvement Trust on the strength of judgments of the Hon'ble Supreme Court referred to above. However if the Tribunal misreads material on record or ignores settled legal principle and its conclusion is unsustainable in law, this Court may either remand the matter for fresh decision or can itself correct the said error. In these cases, acquisition is of the year 1970 and 39 years have passed. Though a large number of land owners were involved but only three land owners have approached this Court for enhancement and the Improvement Trust has also filed only one petition. In these circumstances, it would not be appropriate in the interest of justice to remand the case for fresh decision.

On merits, we find patent error in the impugned award in as much as earlier award pertaining to the same acquisition referred to in para 17 of the impugned award being Exhibit PW-14/17 (Shanti Devi v. Ludhiana Improvement Trust) has been misread. The said award is Annexure P-4 to CWP No. 4064 of 1986. Confronted with this, Counsel for the Improvement Trust is unable to dispute that the Tribunal has misread compensation awarded in Exhibit PW-14/17. Therein rate determined was Rs.20/- per square yard for the entire land. In the impugned award, the location of the land has been noticed in para 17 thus:-

> "The perusal of the award shows that the entire required land is bounded by the G.T. Road Bye Pass from Samrala Road crossing onwards to Ambala towards its Northern Eastern side while on its southern side Industrial Area Extension Scheme of the trust, towards its northern eastern side Link Road to Samrala Road crossing. The resident of Shri Bodh Ran (PW8),

retired S.D.O. of the Punjab State Electricity Board, who prepared scaled plan PW8/8 depicting the various locations clearly shows that across the Link Road to this land is the Dawal Spinning and Weaving Mills and towards its northern are the other factories. Similarly across the Bye Pass are some business concerns.

9 It remains undisputed that entire land was bounded by G.T. Road Bye Pass from Samrala Road crossing onwards to Ambala towards its Northern-Eastern side while on its southern side Industrial Area Extension Scheme as noticed above. The land had more or less same potential and in award Exhibit PW 14/17, which has attained finality, the Tribunal for the same acquisition has awarded Rs.20/- per square yard for acquiring land of Shanti Devi which fell in the second Block as noticed from para 2 of the award of the Tribunal Exhibit P-14/17.

10. Accordingly we dismiss the writ petition filed by the Improvement Trust and allow the writ petitions filed by the land owners to the extent that the land owners will be entitled to Rs.20/- per square yard irrespective of block in which their land fall. Solatium at the rate of 30%, interest @ 9% per annum for the first year and from the date of dispossession and interest @ 15% per annum thereafter. However, the land owners will not be entitled to additional compensation under Section 23 (1-A) of the Land Acquisition Act, 1894.

11. The petitions are disposed of accordingly.

(ADARSH KUMAR GOEL)
JUDGE

20.1.2009 **(JITENDRA CHAUHAN)**
mk **JUDGE**